

February 20, 1998

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# ENGROSSED HOUSE BILL No. 1177

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DIGEST OF HB 1177 (Updated February 17, 1998 1:31 pm - DI 71)

**Citations Affected:** IC 36-6; IC 36-8.

**Synopsis:** Firefighting issues. Allows a township executive to borrow a specified sum from a township fund other than the township firefighting fund if the legislative body of a township finds that an emergency requiring the expenditure of funds is related to paying the operating expenses of a township or volunteer fire department. Provides that an individual may serve as a member of more than one volunteer fire company. Makes certain changes concerning hazardous material service charges and charges for services by volunteer firefighting companies.

**Effective:** Upon passage; July 1, 1998.

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## Ruppel, Bischoff, Liggett, Becker

(SENATE SPONSORS — LANDSKE, WOLF, MEEKS)

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January 8, 1998, read first time and referred to Committee on Local Government.  
January 29, 1998, amended, reported — Do Pass.  
February 2, 1998, read second time, ordered engrossed. Engrossed.  
February 3, 1998, read third time, passed. Yeas 99, nays 0.

#### SENATE ACTION

February 9, 1998, read first time and referred to Committee on Rules and Legislative Procedure.  
February 12, 1998, reassigned to Committee on Public Policy.  
February 19, 1998, amended, reported favorably — Do Pass.

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EH 1177—LS 7187/DI 96+



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February 20, 1998

Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

## ENGROSSED HOUSE BILL No. 1177

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 36-6-6-14 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 14. (a) A special  
3 meeting may be held by the legislative body if the executive, the  
4 chairman of the legislative body, or a majority of the members of the  
5 legislative body issue a written notice of the meeting to each member  
6 of the legislative body. The notice must state the time, place, and  
7 purpose of the meeting.  
8 (b) At the special meeting, if two (2) or more members give their  
9 consent, the legislative body may determine whether there is an  
10 emergency requiring the expenditure of ~~monies~~ **money** not included in  
11 the township's budget estimates and levy. Subject to section 14.5 of this  
12 chapter, if the legislative body finds that such an emergency exists, it  
13 may issue a special order, entered and signed on the record, authorizing  
14 the executive to borrow a specified amount of money sufficient to meet  
15 the emergency. **Notwithstanding IC 36-8-13-4(a), the legislative**

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1 **body may authorize the executive to borrow a specified sum from**  
 2 **a township fund other than the township firefighting fund if the**  
 3 **legislative body finds that the emergency requiring the expenditure**  
 4 **of money is related to paying the operating expenses of a township**  
 5 **fire department or a volunteer fire department.** At its next annual  
 6 session, the legislative body shall cover the debt created by making a  
 7 levy to the credit of the fund for which the amount was borrowed  
 8 **under this subsection.**

9 SECTION 2. IC 36-8-10.5-6 IS AMENDED TO READ AS  
 10 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 6. (a) A full-time  
 11 firefighter must successfully complete the minimum basic training  
 12 requirements established by this chapter before the firefighter may  
 13 perform the duties of a full-time firefighter for the political subdivision.

14 (b) A volunteer firefighter **must who has** successfully **complete**  
 15 **completed** the minimum basic training requirements established by  
 16 this chapter **before being may be** elected or appointed to membership  
 17 in a **more than one (1)** volunteer fire company.

18 SECTION 3. IC 36-8-12-13, AS AMENDED BY P.L.1-1996,  
 19 SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 20 JULY 1, 1998]: Sec. 13. (a) A volunteer fire company may impose a  
 21 charge on the **owner of property**, owner of a vehicle, or a responsible  
 22 party (**as defined in IC 13-11-2-191(d)**) that is involved in a hazardous  
 23 material or fuel spill or chemical or hazardous material related fire (as  
 24 defined in IC 13-11-2-96(b)): **on a public highway, including a**  
 25 **highway that is part of the interstate system (~~IC 8-23-1-25~~):**

26 (1) that is responded to by the volunteer fire company; and

27 (2) that members of that volunteer fire company assisted in  
 28 extinguishing, containing, or cleaning up.

29 (b) The volunteer fire company shall bill the owner or responsible  
 30 party of the vehicle for the total dollar value of the assistance that was  
 31 provided, with that value determined by a method that the state fire  
 32 marshal shall establish under IC 36-8-12-16. A copy of the fire incident  
 33 report to the state fire marshal must accompany the bill. This billing  
 34 must take place within thirty (30) days after the assistance was  
 35 provided. The owner **or responsible party** shall remit payment directly  
 36 to the governmental unit providing the service. Any money that is  
 37 collected under this section may be:

38 (1) deposited in the township firefighting fund established in  
 39 IC 36-8-13-4;

40 (2) used to pay principal and interest on a loan under IC 22-14-5;  
 41 or

42 (3) used for the purchase of equipment, buildings, and property



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1 for firefighting, fire protection, and other emergency services.

2 (c) The volunteer fire company may maintain a civil action to  
3 recover an unpaid charge that is imposed under subsection (a).

4 SECTION 4. IC 36-8-12-16, AS AMENDED BY P.L.1-1996,  
5 SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
6 JULY 1, 1998]: Sec. 16. (a) A volunteer fire ~~department~~ **company** that  
7 provides service within a jurisdiction served by the ~~department~~  
8 **company** may establish a schedule of charges for the services that the  
9 department provides not to exceed the state fire marshal's  
10 recommended schedule for services. ~~Except as provided in~~  
11 ~~IC 36-8-12-13~~, The volunteer fire ~~department~~ **company** may collect a  
12 service charge according to this schedule from the owner of property  
13 ~~or responsible party (as defined in IC 13-11-2-191(d))~~ that receives  
14 service ~~including a service charge for extinguishing, containing, or~~  
15 ~~cleaning up hazardous materials (as defined in IC 13-11-2-96(b))~~ if the  
16 following conditions are met:

17 (1) At the following times, the ~~department~~ **company** gives notice  
18 under ~~IC 5-3-1~~ **IC 5-3-1-4(d) in each political subdivision**  
19 **served by the company** of the amount of the service charge for  
20 each service that the department provides:

21 (A) Before the schedule of service charges is initiated.

22 (B) When there is a change in the amount of a service charge.

23 (2) The property owner has not sent written notice to the  
24 ~~department~~ **company** to refuse service by the ~~department~~  
25 **company** to the owner's property.

26 (3) The ~~department's~~ **company's** bill for payment of the service  
27 charge:

28 (A) is submitted to the property owner ~~or a responsible party~~  
29 in writing within thirty (30) days after the services are  
30 provided; and

31 (B) includes a copy of a fire incident report in the form  
32 prescribed by the state fire marshal, if the service was  
33 provided for an event that requires a fire incident report.

34 (b) A volunteer fire ~~department~~ **company** shall use the revenue the  
35 department collects from the fire service charges under this section for:

36 (1) the purchase of equipment, buildings, and property for  
37 firefighting, fire protection, or other emergency services;

38 (2) deposit in the township firefighting fund established under  
39 IC 36-8-13-4; or

40 (3) to pay principal and interest on a loan under IC 22-14-5.

41 (c) If at least twenty-five percent (25%) of the money received by a  
42 volunteer fire ~~department~~ **company** for providing fire protection or

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1 emergency services is received under one (1) or more contracts with  
2 one (1) or more political subdivisions (as defined in IC 34-4-16.5-2),  
3 the legislative body of a contracting political subdivision must approve  
4 the schedule of service charges established under subsection (a) before  
5 the schedule of service charges is initiated in that political subdivision.  
6 (d) A volunteer fire company that:  
7 (1) has contracted with a political subdivision to provide fire  
8 protection or emergency services; and  
9 (2) charges for services under this section;  
10 must submit a report to the legislative body of the political subdivision  
11 before April 1 of each year indicating the amount of service charges  
12 collected during the previous calendar year and how those funds have  
13 been expended.  
14 (e) The state fire marshal shall annually prepare and publish a  
15 recommended schedule of service charges for fire protection services.  
16 (f) The volunteer fire company may maintain a civil action to  
17 recover an unpaid service charge under this section.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1177, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 22-14-5-9, AS ADDED BY P.L.70-1995, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 9. A loan under this chapter is subject to the following conditions:

- (1) The qualified entity may use the loan only for the purchase of new or used firefighting and other emergency equipment or apparatus, and legal and other incidental expenses that are directly related to acquiring the equipment or apparatus.
- (2) The repayment period may not exceed seven (7) years.
- (3) The amount of the loan may not be less than ten thousand dollars (\$10,000).
- (4) The interest rate ~~of the loan is to be set by the board of finance at a rate that is not more than two three percent (2%) below the prime bank lending rate prevailing at the time the loan is approved: (3%).~~
- (5) All interest reverts to the revolving fund created by this chapter.
- (6) The loan must be repaid in installments, including interest on the unpaid balance of the loan.
- (7) The repayment of principal may be deferred for a period not to exceed two (2) years.
- (8) The repayment of the loan may be limited to a specified revenue source of the qualified entity. If the repayment is limited, the repayment:
  - (A) is not a general obligation of the qualified entity; and
  - (B) is payable solely from the specified revenue source.
- (9) If prepayment of the loan is made, a penalty may not be charged.
- (10) The office shall have a security interest in the purchased firefighting or other emergency equipment or apparatus for the balance of the loan, accrued interest, penalties, and collection expenses.
- (11) Any other conditions that the office considers appropriate."

Page 1, delete lines 10 through 15.

Delete pages 2 through 4.

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Page 5, delete lines 1 through 24.

Page 7, delete lines 10 through 12.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to House Bill 1177 as introduced.)

STEVENSON, Chair

Committee Vote: yeas 13, nays 0.

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SENATE MOTION

Mr. President: I move that Senate Bill 1177, currently assigned to the Committee on Rules and Legislative Procedure, be reassigned to the Committee on Public Policy.

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Public Policy, to which was referred House Bill 1177, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 15.

Page 2, delete lines 1 through 18, begin a new paragraph and insert:

"SECTION 1. IC 36-6-6-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 14. (a) A special meeting may be held by the legislative body if the executive, the chairman of the legislative body, or a majority of the members of the legislative body issue a written notice of the meeting to each member of the legislative body. The notice must state the time, place, and purpose of the meeting.

(b) At the special meeting, if two (2) or more members give their consent, the legislative body may determine whether there is an emergency requiring the expenditure of ~~monies~~ **money** not included in the township's budget estimates and levy. Subject to section 14.5 of this chapter, if the legislative body finds that such an emergency exists, it may issue a special order, entered and signed on the record, authorizing the executive to borrow a specified amount of money sufficient to meet the emergency. **Notwithstanding IC 36-8-13-4(a), the legislative body may authorize the executive to borrow a specified sum from a township fund other than the township firefighting fund if the legislative body finds that the emergency requiring the expenditure of money is related to paying the operating expenses of a township fire department or a volunteer fire department.** At its next annual session, the legislative body shall cover the debt created by making a levy to the credit of the fund for which the amount was borrowed **under this subsection.**"

Page 2, delete lines 28 through 42, begin a new paragraph and insert:

"SECTION 3. IC 36-8-12-13, AS AMENDED BY P.L.1-1996, SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 13. (a) A volunteer fire company may impose a charge on the **owner of property**, owner of a vehicle, or a responsible party (**as defined in IC 13-11-2-191(d)**) that is involved in a hazardous material or fuel spill or chemical or hazardous material related fire (as defined in IC 13-11-2-96(b)): ~~on a public highway, including a highway that is part of the interstate system (IC 8-23-1-25):~~

- (1) that is responded to by the volunteer fire company; and
- (2) that members of that volunteer fire company assisted in

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extinguishing, containing, or cleaning up.

(b) The volunteer fire company shall bill the owner or responsible party of the vehicle for the total dollar value of the assistance that was provided, with that value determined by a method that the state fire marshal shall establish under IC 36-8-12-16. A copy of the fire incident report to the state fire marshal must accompany the bill. This billing must take place within thirty (30) days after the assistance was provided. The owner **or responsible party** shall remit payment directly to the governmental unit providing the service. Any money that is collected under this section may be:

- (1) deposited in the township firefighting fund established in IC 36-8-13-4;
- (2) used to pay principal and interest on a loan under IC 22-14-5;
- or
- (3) used for the purchase of equipment, buildings, and property for firefighting, fire protection, and other emergency services.

(c) The volunteer fire company may maintain a civil action to recover an unpaid charge that is imposed under subsection (a).

SECTION 4. IC 36-8-12-16, AS AMENDED BY P.L.1-1996, SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 16. (a) A volunteer fire ~~department~~ **company** that provides service within a jurisdiction served by the ~~department~~ **company** may establish a schedule of charges for the services that the department provides not to exceed the state fire marshal's recommended schedule for services. ~~Except as provided in IC 36-8-12-13;~~ The volunteer fire ~~department~~ **company** may collect a service charge according to this schedule from the owner of property ~~or responsible party (as defined in IC 13-11-2-191(d))~~ that receives service ~~including a service charge for extinguishing, containing, or cleaning up hazardous materials (as defined in IC 13-11-2-96(b))~~ if the following conditions are met:

- (1) At the following times, the ~~department~~ **company** gives notice under ~~IC 5-3-1~~ **IC 5-3-1-4(d) in each political subdivision served by the company** of the amount of the service charge for each service that the department provides:
  - (A) Before the schedule of service charges is initiated.
  - (B) When there is a change in the amount of a service charge.
- (2) The property owner has not sent written notice to the ~~department~~ **company** to refuse service by the ~~department~~ **company** to the owner's property.
- (3) The ~~department's~~ **company's** bill for payment of the service charge:



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(A) is submitted to the property owner ~~or a responsible party~~ in writing within thirty (30) days after the services are provided; and

(B) includes a copy of a fire incident report in the form prescribed by the state fire marshal, if the service was provided for an event that requires a fire incident report.

(b) A volunteer fire ~~department~~ **company** shall use the revenue the department collects from the fire service charges under this section for:

- (1) the purchase of equipment, buildings, and property for firefighting, fire protection, or other emergency services;
- (2) deposit in the township firefighting fund established under IC 36-8-13-4; or
- (3) to pay principal and interest on a loan under IC 22-14-5.

(c) If at least twenty-five percent (25%) of the money received by a volunteer fire ~~department~~ **company** for providing fire protection or emergency services is received under one (1) or more contracts with one (1) or more political subdivisions (as defined in IC 34-4-16.5-2), the legislative body of a contracting political subdivision must approve the schedule of service charges established under subsection (a) before the schedule of service charges is initiated in that political subdivision.

(d) A volunteer fire company that:

- (1) has contracted with a political subdivision to provide fire protection or emergency services; and
- (2) charges for services under this section;

must submit a report to the legislative body of the political subdivision before April 1 of each year indicating the amount of service charges collected during the previous calendar year and how those funds have been expended.

(e) The state fire marshal shall annually prepare and publish a recommended schedule of service charges for fire protection services.

(f) The volunteer fire company may maintain a civil action to recover an unpaid service charge under this section."

Delete pages 3 through 4.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to House Bill 1177 as printed January 30, 1998.)

WYSS, Chairperson

Committee Vote: Yeas 7, Nays 0.



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